IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE FOURTEENTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 14842 of 2004

Between:

K. Ganga Raju, S/o. Korlaiah,

Aged about 37 years, Occ: Agriculture,
R/o. Appikonda Village, T. Devada Mandal, Visakhapatnam District.

..... PETITIONER

AND

1 Maharaja Alak Narayan Society of Arts & Science,

Fort Vizianagaram, Rep. by its Executive Officer
of Endowments.
2 The Commissioner of Endowments, Boggulakunta, Tilak Road,

Hyderabad.
3 The Government of Andhra Pradesh, Rep. by Principal

Secretary to Government,
Revenue (Endowments-IV) Department, Secretariat, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the respondents without considering the Memorandum dt. 27-2-2004 (for extension of lease for further period of 6 years and for remission of lease amount by 50%), issuing demand notice to pay an amount of Rs.45,000/- towards interest is arbitrary, unjust, unfair and violative of Article 14, 19(1)(g), 21 and 300-A of the Constitution of India and consequently to direct the respondents to consider the representation dt. 27-2-2004 for extension of lease for further period of 6 years and to reduce the lease rent by 50%.

Counsel for the Petitioner: MR.PARAVASTHU KRISHNA

Counsel for the Respondent No.1: SMT N.INDRANI

Counsel for the Respondent Nos.2 and 3: GP FOR ENDOWMENTS

The Court made the following :

ORDER:

This writ petition is filed seeking a writ of Mandamus declaring the action of the respondents in issuing demand notice to pay an amount of Rs.45,000/- towards interest, without considering the Representation of the petitioner dated 27-02-2004 for extension of lease for a further period of 6 years and for remission of lease amount by 50% as arbitrary and illegal.

The petitioner claims to be a lessee in respect of the usufruct of Cahshewnut in the land to an extent of Ac.58.60 cents situated in Sy.No.184, Compartment No.8 near Chippada Village, Bhimunipatnam Mandal, Visakhapatnam District, belonging to the 1st respondent. The lease amount was Rs.1,59,000/- per year. It appears that by virtue of orders of this Court in W.P.No.13666 of 1998, the petitioner was continued as a lessee for a further period of 5 years with effect from 01-05-1999. Thus, the lease was valid up to 30-04-2004. However, the case of the petitioner is that due to severe drought and also severe cyclones, the heavy investment made by the petitioner to the tune of Rs.4,00,000/- for the purpose of watering, spraying of pesticides, manures, etc., has become dead waste and he suffered heavy losses. Consequently, he had to raise loans from private parties for higher rate of interest. He states that in the circumstances, he made number of representations to the respondents requesting to reduce the existing rents by 50% and to renew the lease

in his favour for a further period of 6 years. In pursuance of one of such representations dated 27-02-2004, the petitioner was informed by the third respondent-Government by Memo dated 10-03-2004 stating that his representation has been sent to the 2nd respondent-Commissioner of Endowments, for taking necessary action as per law. Even thereafter, no action has been taken by the 2nd respondent. Aggrieved by the said inaction, the petitioner filed W.P.No.5578 of 2004, which was disposed of by this Court by order, dated 30-04-2004, leaving it open to the petitioner to make an application, in which event, the respondents are directed to consider the same in accordance with law. The petitioner further states that while the matters are pending, he was served with a legal notice dated 21-07-2004 got issued by the 1st respondent-Society, calling upon the petitioner to pay a sum of Rs.45,000/- towards the interest on the defaulted amount. In spite of the repeated requests made by the petitioner for statement of accounts or for receipts for the amounts he paid, he was not given any account by the 1st respondent and on the other hand, a paper publication was issued putting the lease-hold rights in question to public auction, which was scheduled to be conducted on 25-08-2004. Hence, this writ petition.

This Court while directing notice before admission by order dated 20-08-2004, granted interim directions that the proposed auction may go on, but the same shall not be confirmed.

Now, the learned Standing Counsel appearing for the 1st respondent, under instructions, states that the auction has been conducted on 25-08-2004 as scheduled, but the same has not been confirmed. The learned Standing Counsel further states that pursuant to the orders of this Court in W.P.No.5578 of 2004 granting liberty to the petitioner to make a request before the respondents seeking extension of lease period, the petitioner never made any application before the 1st respondent, who is the competent authority for extension of lease. Thus, according to the learned Counsel, the petitioner has no legal right to continue in possession, since admittedly the lease period expired on 30-04-2004 and therefore the petitioner is not entitled to any relief and the writ petition is liable to be dismissed in limini.

The learned counsel for the petitioner did not dispute the fact that the lease period has already expired. However, he submitted that since the petitioner suffered heavy losses, it would be appropriate to permit him to continue in possession for a further period of minimum two years.

Having regard to the facts and circumstances of the case, I am of the view that as rightly contended by the learned Standing Counsel for the 1st respondent, it is for the petitioner to make an appropriate representation before the 1st respondent, if he intends to continue in possession, seeking extension of lease granted in his favour. Since there is nothing on record to show that he made such a request before the 1st respondent, the relief as prayed for, cannot be granted and there cannot be a direction to the respondents to extend the lease.

However, with regard to the claim of the petitioner for remission of lease amount by 50%, it is to be noted that by virtue of the proceedings of the 3rd respondent dated 10-03-2004, the matter has been referred to the 2nd respondent for taking necessary action as per law. Learned counsel for the petitioner states that the proceedings are still pending before the 2nd respondent. If that be so, there shall be a direction to the 2nd respondent to consider the claim of the petitioner and to pass appropriate orders in accordance with law as expeditiously as possible, preferably, within a period of eight weeks from the date of receipt of a copy of this order.

Accordingly, the writ petition is disposed of. Needless to mention that the interim order granted on 20-08-2004 shall stand vacated. No costs.

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14-09-2004

vs

To

1 The Executive Officer of Endowments,

Maharaja Alak Narayan Society of Arts & Science,

Fort Vizianagaram.
2 The Commissioner of Endowments, Boggulakunta, Tilak Road,

Hyderabad.
3 The Principal Secretary to Government, Government of Andhra

Pradesh, Revenue (Endowments-IV) Department,

Secretariat, Hyderabad.

4 Two CCs to the G.P for Endowments, High Court Buildings,

Hyderabad(O.U.T).

5 Two CD copies.